



General Assembly

January Session, 2009

Governor's Bill No. 6368

LCO No. 2680

02680_____

Referred to Committee on Banks

Introduced by:

REP. CAFERO, 142nd Dist.

SEN. MCKINNEY, 28th Dist.

***AN ACT CONCERNING IMPLEMENTATION OF THE S.A.F.E.
MORTGAGE LICENSING ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) Sections 1, 2 and 11 of this
2 act, and sections 21 to 23, inclusive, of this act, may be cited as the
3 "Connecticut Law for Implementation of the federal S.A.F.E. Mortgage
4 Licensing Act of 2008".

5 Sec. 2. (NEW) (*Effective from passage*) The activities of mortgage loan
6 originators and the origination or offering of financing for residential
7 real property have a direct, valuable and immediate impact upon
8 Connecticut's consumers, Connecticut's economy, the neighborhoods
9 and communities of Connecticut, and the housing and real estate
10 industry. The General Assembly finds that accessibility to mortgage
11 credit is vital to the state's citizens. The General Assembly also finds
12 that it is essential for the protection of the citizens of this state and the
13 stability of the state's economy that reasonable standards for licensing
14 and regulation of the business practices of mortgage loan originators

15 be imposed. The General Assembly further finds that the obligations of
16 mortgage loan originators to consumers in connection with originating
17 or making residential mortgage loans are such as to warrant the
18 regulation of the mortgage lending process. The purpose of this
19 section, sections 2 and 11 of this act and sections 21 to 23, inclusive, of
20 this act, is to protect consumers seeking mortgage loans and to ensure
21 that the mortgage lending industry is operating without unfair,
22 deceptive and fraudulent practices on the part of mortgage loan
23 originators. Therefore, to the extent not currently provided in title 36a
24 of the general statutes, the General Assembly establishes:

25 (1) An effective system of supervision and enforcement of the
26 mortgage lending industry, under sections 36a-485 to 36a-498a,
27 inclusive, of the general statutes, as amended by this act, including the
28 authority to: (A) Issue licenses to conduct business, including the
29 authority to adopt regulations or procedures necessary to the licensing
30 of persons covered under said sections; (B) deny, suspend, condition or
31 revoke licenses issued; (C) examine, investigate and conduct
32 enforcement actions as necessary to carry out the intended purposes of
33 said sections, including the authority to subpoena witnesses and
34 documents, enter orders, including cease and desist orders and order
35 restitution and civil penalties and the removal and ban of individuals
36 from office or employment.

37 (2) That the Banking Commissioner shall have broad administrative
38 authority to administer, interpret and enforce this section, sections 2
39 and 11 of this act and sections 21 to 23, inclusive, of this act, and adopt
40 regulations implementing this section, sections 2 and 11 of this act and
41 sections 21 to 23, inclusive, of this act, in order to carry out the
42 intentions of the General Assembly.

43 (3) That for the purposes of implementing an orderly and efficient
44 licensing process, the commissioner may establish licensing
45 regulations and interim procedures for licensing and acceptance of
46 applications, and for previously registered or licensed individuals, the

47 commissioner may establish expedited review and licensing
48 procedures.

49 Sec. 3. Section 36a-21 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective from passage*):

51 (a) Notwithstanding any provision of state law and except as
52 provided in [subsection] subsections (b) and (d) of this section and
53 subdivision (2) of subsection (a) of section 36a-534b, as amended by
54 this act, the following records of the Department of Banking shall not
55 be disclosed by the commissioner or any employee of the Department
56 of Banking, or be subject to public inspection or discovery:

57 (1) Examination and investigation reports and information
58 contained in or derived from such reports, including examination
59 reports prepared by the commissioner or prepared on behalf of or for
60 the use of the commissioner;

61 (2) Confidential supervisory or investigative information obtained
62 from a state, federal or foreign regulatory or law enforcement agency;
63 and

64 (3) Information obtained, collected or prepared in connection with
65 examinations, inspections or investigations, and complaints from the
66 public received by the Department of Banking, if such records are
67 protected from disclosure under federal or state law or, in the opinion
68 of the commissioner, such records would disclose, or would
69 reasonably lead to the disclosure of: (A) Investigative information the
70 disclosure of which would be prejudicial to such investigation, until
71 such time as the investigation and all related administrative and legal
72 actions are concluded; (B) personal or financial information, including
73 account or loan information, without the written consent of the person
74 or persons to whom the information pertains; or (C) information that
75 would harm the reputation of any person or affect the safety and
76 soundness of any person whose activities in this state are subject to the
77 supervision of the commissioner, and the disclosure of such

78 information under this subparagraph would not be in the public
79 interest.

80 (b) The commissioner may, without waiving any privilege, disclose
81 the records described in subsection (a) of this section for any
82 appropriate supervisory, governmental, law enforcement or other
83 public purpose. Any such disclosure shall be made under safeguards
84 designed to prevent further dissemination of such records. In any
85 proceeding before a court, the court may issue a protective order in
86 appropriate circumstances to protect the confidentiality of any such
87 record and order that any such record on file with the court or filed in
88 connection with the court proceeding be sealed and that the public be
89 excluded from any portion of the proceeding at which any such record
90 is disclosed.

91 (c) No director, officer, employee or agent of any Connecticut bank
92 or Connecticut credit union shall disclose without the prior written
93 consent of the commissioner any information contained in an
94 examination report about such bank or credit union, which
95 information is not otherwise a matter of public record.

96 (d) (1) The provisions of subsections (a) and (b) of this section shall
97 not apply to the disclosure of [(1)] any record [that is] provided to or
98 maintained by the commissioner with the [Nationwide Mortgage
99 Licensing] System. [to any supervisory, governmental or law
100 enforcement agency that is authorized to access such record on the
101 system, provided such record shall remain the property of the
102 Department of Banking and may not be further disclosed to any
103 person without the consent of the commissioner, or (2) any record of a
104 licensee that is maintained by the commissioner with such system to
105 such licensee. No person may obtain information from the Nationwide
106 Mortgage Licensing System that could not otherwise be obtained
107 under state law. No information obtained from the Nationwide
108 Mortgage Licensing System shall be admissible as evidence in, or used
109 to initiate, a civil proceeding in this state unless such information

110 would otherwise be admissible in such proceeding under state law.]
111 Except as otherwise provided in Section 1512 of the federal S.A.F.E.
112 Mortgage Licensing Act of 2008, any requirements under federal law
113 or any law of this state, including this section and chapter 14 and any
114 privilege arising under federal law or any law of this state, including
115 the rules of any federal court or court of this state that protect the
116 disclosure of any record provided to or maintained with the System,
117 shall continue to apply to such record after it has been disclosed to the
118 System. Such record may be shared with all state and federal
119 regulatory officials that have oversight authority over the mortgage
120 industry without the loss of privilege or the loss of confidentiality
121 protections provided by federal law or the laws of this state. For
122 purposes of this subsection, the commissioner may enter into
123 agreements or sharing arrangements with other governmental
124 agencies, the Conference of State Bank Supervisors, the American
125 Association of Residential Mortgage Regulators or associations
126 representing governmental agencies.

127 (2) Any information or material that is protected from disclosure
128 under subdivision (1) of this subsection shall not be subject to (A)
129 disclosure under any federal or state law governing disclosure to the
130 public of information held by an officer or agency of the federal
131 government or the respective state; or (B) subpoena, discovery or
132 admission into evidence in any private civil action or administrative
133 process, except a person may, at such person's discretion, waive in
134 whole or in part a privilege held by the System concerning such
135 information and material.

136 (3) Any law of this state relating to the disclosure of confidential
137 supervisory information or of any information or material described in
138 subdivision (1) of this subsection that is inconsistent with subdivision
139 (1) shall be superseded by the requirements of this subsection.

140 (e) The confidentiality provisions of this section shall not apply to
141 records relating to the employment history of, and publicly

142 adjudicated disciplinary and enforcement actions against, mortgage
143 loan originators that are included in the System for access by the
144 public.

145 (f) For purposes of this section, "System" has the same meaning as
146 provided in section 36a-485, as amended by this act.

147 Sec. 4. Section 36a-485 of the general statutes is repealed and the
148 following is substituted in lieu thereof (*Effective from passage*):

149 As used in this section and sections 36a-486 to 36a-498a, inclusive, as
150 amended by this act, unless the context otherwise requires:

151 (1) "Advance fee" means any consideration paid or given, directly or
152 indirectly, to a mortgage lender, mortgage correspondent lender or
153 mortgage broker required to be licensed pursuant to sections 36a-485
154 to 36a-498a, inclusive, as amended by this act, prior to the closing of a
155 residential mortgage loan to any person, including, but not limited to,
156 loan fees, points, broker's fees or commissions, transaction fees or
157 similar prepaid finance charges;

158 (2) "Advertise", [or] "advertisement" or "advertising" means the use
159 of any announcement, statement, assertion or representation that is
160 placed before the public in a newspaper, magazine or other
161 publication, or in the form of a notice, circular, pamphlet, letter or
162 poster or over any radio or television station, by means of the Internet,
163 or by other electronic means of distributing information, by personal
164 contact, or in any other way;

165 (3) "Branch office" means a location other than the main office at
166 which a licensee or any person on behalf of a licensee acts as a
167 mortgage lender, mortgage correspondent lender or mortgage broker;

168 (4) "Depository institution" has the same meaning as provided in
169 Section 3 of the Federal Deposit Insurance Act, 12 USC 1813, and
170 includes any Connecticut credit union, federal credit union or out-of-
171 state credit union;

172 (5) "Federal banking agencies" means the Board of Governors of the
173 Federal Reserve System, the Comptroller of the Currency, the Director
174 of the Office of Thrift Supervision, the National Credit Union
175 Administration and the Federal Deposit Insurance Corporation;

176 [(4)] (6) "First mortgage loan" means a [loan or an extension of
177 credit, including, but not limited to, an extension of credit pursuant to
178 a contract or an assigned contract for the sale of goods or services,
179 made to a natural person, the proceeds of which are to be used
180 primarily for personal, family or household purposes, and which]
181 residential mortgage loan that is secured by a first mortgage; [upon
182 any interest in one-to-four-family owner-occupied residential property
183 located in this state which is not subject to any prior mortgages and
184 includes the renewal or refinancing of an existing first mortgage loan;]

185 [(5)] (7) "Main office" means the main address designated on the
186 [Nationwide Mortgage Licensing] System;

187 [(6)] (8) "Mortgage broker" means a person who, for a fee,
188 commission or other valuable consideration, directly or indirectly,
189 negotiates, solicits, arranges, places or finds a residential mortgage
190 loan that is to be made by a mortgage lender or mortgage
191 correspondent lender, whether or not the mortgage lender or mortgage
192 correspondent lender are required to be licensed under sections 36a-
193 485 to 36a-498a, inclusive, as amended by this act;

194 [(7)] (9) "Mortgage correspondent lender" means a person engaged
195 in the business of making mortgage loans in such person's own name
196 where the loans are not held by such person for more than ninety days
197 and are funded by another person through a warehouse agreement,
198 table funding agreement or similar agreement;

199 [(8)] (10) "Mortgage lender" means a person engaged in the business
200 of making mortgage residential loans in such person's own name
201 utilizing such person's own funds or by funding loans through a
202 warehouse agreement, table funding agreement or similar agreement;

203 [(9) "Mortgage loan" means a first mortgage loan or secondary
204 mortgage loan;]

205 [(10)] (11) "Mortgage loan originator" means an individual [who is
206 employed or retained by, or otherwise acts on behalf of, a mortgage
207 lender, mortgage correspondent lender or mortgage broker licensee
208 who, for, or with the expectation of, a fee, commission or other
209 valuable consideration, takes an application for or negotiates, solicits,
210 arranges or finds a mortgage loan. "Mortgage loan originator" does not
211 include (1) an officer, if the licensee is a corporation; a general partner,
212 if the licensee is a partnership; a member, if the licensee is a limited
213 liability company; or a sole proprietor, if the licensee is a sole
214 proprietorship, or (2) an individual whose responsibilities are limited
215 to clerical and administrative tasks and who does not solicit borrowers,
216 arrange or find mortgage loans, take applications or negotiate the
217 terms of loans] who takes a residential mortgage loan application or
218 offers or negotiates terms of a residential mortgage loan for
219 compensation or gain. "Mortgage loan originator" does not include (A)
220 any person who does not otherwise come within the definition of
221 mortgage loan originator and who performs purely administrative or
222 clerical tasks on behalf of a mortgage loan originator; (B) a person who
223 only performs real estate brokerage activities and is licensed in
224 accordance with chapter 392, unless the individual is compensated by
225 a mortgage lender, mortgage correspondent lender, mortgage broker
226 or other mortgage loan originator or by any agent of such mortgage
227 lender, mortgage correspondent lender, mortgage broker or other
228 mortgage loan originator; or (C) a person solely involved in extensions
229 of credit relating to timeshare plans, as that term is defined in
230 Paragraph 53D of 11 USC 101. For purposes of this subdivision,
231 "administrative or clerical tasks" means the receipt, collection and
232 distribution of information common for the processing or
233 underwriting of a loan in the mortgage industry and communication
234 with a consumer to obtain information necessary for the processing or
235 underwriting of a residential mortgage loan;

236 [(11)] (12) "Office" means a branch office or a main office;

237 (13) "Person" means an individual, corporation, company, limited
238 liability company, partnership or association;

239 [(12)] (14) "Principal amount of the loan" means the gross amount
240 the borrower is obligated to repay including any prepaid finance
241 charge that is financed, and any other charge that is financed;

242 (15) "Real estate brokerage activity" means any activity that involves
243 offering or providing real estate brokerage services to the public,
244 including (A) acting as a real estate agent or real estate broker for a
245 buyer, seller, lessor or lessee of real property; (B) bringing together
246 parties interested in the sale, purchase, lease, rental or exchange of real
247 property; (C) negotiating, on behalf of any party, any portion of a
248 contract relating to the sale, purchase, lease, rental or exchange of real
249 property, other than in connection with providing financing with
250 respect to any such transaction; (D) engaging in any activity for which
251 a person engaged in the activity is required to be licensed as a real
252 estate agent or real estate broker under any applicable law; and (E)
253 offering to engage in any activity, or act in any capacity, described in
254 this subdivision;

255 (16) "Registered mortgage loan originator" means any individual
256 who (A) meets the definition of mortgage loan originator and is an
257 employee of a depository institution, a subsidiary that is owned and
258 controlled by a depository institution and regulated by a federal
259 banking agency, or an institution regulated by the Farm Credit
260 Administration; and (B) is registered with and maintains a unique
261 identifier through the System;

262 (17) "Residential mortgage loan" means any loan primarily for
263 personal, family or household use that is secured by a mortgage, deed
264 of trust or other equivalent consensual security interest on a dwelling
265 as defined in Section 103 of the Consumer Credit Protection Act, 15
266 USC 1602, or residential real estate located in this state upon which is

267 constructed or intended to be constructed a dwelling, as so defined;

268 [(13) "Residential property" means improved real property used or
269 occupied, or intended to be used or occupied, for residential purposes;]

270 [(14)] (18) "Secondary mortgage loan" means [(A) a loan or an
271 extension of credit, including, but not limited to, an extension of credit
272 pursuant to a contract or an assigned contract for the sale of goods or
273 services, made to a natural person, the proceeds of which are to be
274 used primarily for personal, family or household purposes, and] a
275 residential mortgage loan that is secured, in whole or in part, by a
276 mortgage, [upon any interest in one-to-four-family owner-occupied
277 residential property located in this state,] provided such property is
278 subject to one or more prior mortgages; [, and (B) the renewal or
279 refinancing of any existing loan or extension of credit described in
280 subparagraph (A) of this subdivision;]

281 [(15)] (19) "Simulated check" means a document that imitates or
282 resembles a check but is not a negotiable instrument;

283 (20) "System" means the Nationwide Mortgage Licensing System
284 and Registry developed and maintained by the Conference of State
285 Bank Supervisors and the American Association of Residential
286 Mortgage Regulators for the licensing and registration of mortgage
287 lenders, mortgage correspondent lenders, mortgage brokers and
288 mortgage loan originators;

289 [(16)] (21) "Table funding agreement" means an agreement wherein
290 a person agrees to fund mortgage loans to be made in another person's
291 name and to purchase such loans after they are made; [and]

292 (22) "Unique identifier" means a number or other identifier assigned
293 by protocols established by the System; and

294 [(17)] (23) "Warehouse agreement" means an agreement to provide
295 credit to a person to enable the person to have funds to make
296 residential mortgage loans and hold such loans pending sale to other

297 persons.

298 Sec. 5. Section 36a-534b of the general statutes is repealed and the
299 following is substituted in lieu thereof (*Effective from passage*):

300 (a) [The Banking Commissioner] (1) In addition to any other duties
301 imposed upon the Banking Commissioner by law, the commissioner
302 shall require mortgage lenders, mortgage correspondent lenders,
303 mortgage brokers and mortgage loan originators to be licensed and
304 registered through the System. In order to carry out this requirement,
305 the commissioner shall participate in the [Nationwide Mortgage
306 Licensing] System [for this state] and permit [such system] the System
307 to process applications for mortgage lender, mortgage correspondent
308 lender, mortgage broker and mortgage loan originator licenses in this
309 state and receive and maintain records related to such licenses that are
310 allowed or required to be maintained by the commissioner. For this
311 purpose, the commissioner may establish, by order or regulation, the
312 requirements and procedures necessary for participation in the
313 System, including, but not limited to: (A) Applicant background
314 checks for criminal history through (i) fingerprint or other databases,
315 (ii) civil or administrative records, or (iii) credit history or any other
316 information as deemed necessary by the System; (B) fees to apply for
317 or renew licenses through the System; (C) license renewal or reporting
318 dates; and (D) the process for amending or surrendering a license or
319 any other such activities as the commissioner deems necessary for
320 participation in the System. For the purpose of participating in the
321 System, the commissioner may waive or modify, in whole or in part,
322 by regulation or order, any requirement of sections 36a-485 to 36a-
323 498a, inclusive, as amended by this act, and to establish new
324 requirements as reasonably necessary to participate in the System.

325 (2) The commissioner shall report regularly to the System violations
326 of and enforcement actions under sections 36a-485 to 36a-498a,
327 inclusive, as amended by this act, sections 21 and 22 of this act and
328 other relevant information.

329 (3) The commissioner may establish relationships or enter into
330 contracts with the System or other entities designated by the System to
331 collect and maintain records and process transaction fees or other fees
332 related to licensees or other persons subject to sections 36a-485 to 36a-
333 498a, inclusive, as amended by this act.

334 (4) For the purposes of sections 36a-485 to 36a-498a, inclusive, as
335 amended by this act, and to reduce the points of contact that the
336 Federal Bureau of Investigation may have to maintain under the
337 federal S.A.F.E. Mortgage Licensing Act, the commissioner may use
338 the System as a channeling agent for requesting information from and
339 distributing information to the United States Department of Justice or
340 any governmental agency.

341 (5) For the purposes of sections 36a-485 to 36a-498a, inclusive, as
342 amended by this act, and to reduce the points of contact that the
343 commissioner may have to maintain, the commissioner may use the
344 System as a channeling agent for requesting and distributing
345 information to and from any source, as directed by the commissioner.

346 (6) The commissioner shall establish a process whereby mortgage
347 lenders, mortgage correspondent lenders, mortgage brokers and
348 mortgage loan originators may challenge information entered into the
349 System by the commissioner.

350 (b) (1) Each first mortgage lender license and secondary mortgage
351 lender license in existence on June 30, 2008, shall be deemed on and
352 after July 1, 2008, to be a mortgage lender license, as defined in section
353 36a-485, as amended by this act; (2) each first mortgage correspondent
354 lender license and secondary mortgage correspondent lender license in
355 existence on June 30, 2008, shall be deemed on and after July 1, 2008, to
356 be a mortgage correspondent lender license, as defined in section 36a-
357 485, as amended by this act; (3) each first mortgage broker license and
358 secondary mortgage broker license in existence on June 30, 2008, shall
359 be deemed on and after July 1, 2008, to be a mortgage broker license, as
360 defined in section 36a-485, as amended by this act; and (4) each

361 originator registration in existence on June 30, 2008, shall be deemed
362 on and after July 1, 2008, to be a mortgage loan originator license, as
363 defined in section 36a-485, as amended by this act.

364 (c) (1) Each person licensed on July 1, 2008, as a mortgage lender,
365 mortgage correspondent lender, mortgage broker or mortgage loan
366 originator shall, prior to October 1, 2008, transition on to the
367 [Nationwide Mortgage Licensing] System by submitting all licensing
368 and license-related information required by the [Nationwide Mortgage
369 Licensing] System for this state.

370 (2) On and after July 1, 2008, any licensing or license-related filings
371 shall be submitted exclusively through the [Nationwide Mortgage
372 Licensing] System.

373 (3) Any person making any filing or submission of any information
374 on the [Nationwide Mortgage Licensing] System shall do so in
375 accordance with the procedures and requirements of [such system] the
376 System and pay the applicable fees or charges to [such system] the
377 System. Each mortgage lender, mortgage correspondent lender,
378 mortgage broker and mortgage loan originator licensee shall submit to
379 the System reports of condition that shall be in such form and shall
380 contain such information as the System may require.

381 (d) Notwithstanding the provisions of this section, any initial
382 application for a license submitted on the [Nationwide Mortgage
383 Licensing] System between October 1, 2008, and December 31, 2008,
384 shall not be approved by the commissioner prior to January 1, 2009.

385 (e) For purposes of this section, "System" has the same meaning as
386 provided in section 36a-485, as amended by this act.

387 Sec. 6. Section 36a-498c of the general statutes is repealed and the
388 following is substituted in lieu thereof (*Effective from passage*):

389 At least once a year, each mortgage lender and mortgage
390 correspondent lender, both as defined in section 36a-485, as amended

391 by this act, and licensed under section 36a-489, as amended by this act,
392 shall adopt a mortgage loan policy with respect to subprime mortgage
393 loans and nontraditional mortgage loans made by such mortgage
394 lender or such mortgage correspondent lender based on and consistent
395 with the most current version of the Conference of State Bank
396 Supervisors, American Association of Residential Mortgage Regulators
397 and National Association of Consumer Credit Administrators
398 Statement on Subprime Mortgage Lending, and the Conference of
399 State Bank Supervisors and American Association of Residential
400 Mortgage Regulators Guidance on Nontraditional Mortgage Product
401 Risks. Such licensees shall comply with such policy and develop and
402 implement internal controls that are reasonably designed to ensure
403 such compliance. The mortgage loan policy and any residential
404 mortgage loan, as defined in section 36a-485, as amended by this act,
405 made pursuant to the policy shall be subject to examination concerning
406 prudent lending practices by the [Banking Commissioner]
407 commissioner.

408 Sec. 7. Section 36a-486 of the general statutes is repealed and the
409 following is substituted in lieu thereof (*Effective from passage*):

410 (a) No person shall engage in the business of making mortgage
411 loans or act as a mortgage broker in this state unless such person has
412 first obtained the required license for its main office and each branch
413 office where such business is conducted in accordance with the
414 provisions of sections 36a-485 to 36a-498a, inclusive, as amended by
415 this act. A person, other than a licensed mortgage loan originator
416 acting on behalf of the mortgage lender, mortgage correspondent
417 lender or mortgage broker, that employs or retains such mortgage loan
418 originator, shall be deemed to be engaged in the business of making
419 residential mortgage loans if such person advertises, causes to be
420 advertised, solicits, offers to make or makes residential mortgage
421 loans, either directly or indirectly. A mortgage correspondent lender
422 shall not be deemed to be acting as a mortgage lender if such mortgage
423 correspondent lender makes a loan utilizing its own funds in a

424 situation where another person does not honor such person's
425 commitment to fund the loan.

426 (b) (1) No person licensed as a mortgage lender, mortgage
427 correspondent lender or mortgage broker shall employ or retain a
428 mortgage loan originator unless such mortgage loan originator is
429 licensed under sections 36a-485 to 36a-498a, inclusive, as amended by
430 this act. Unless specifically exempted under subdivisions (2), (3) and
431 (4) of this subsection, an individual may not engage in the business of
432 a mortgage loan originator without being licensed as a mortgage loan
433 originator under sections 36a-485 to 36a-498a, inclusive, as amended
434 by this act. Each licensed mortgage loan originator shall register with
435 and maintain a valid unique identifier issued by the System. No
436 individual may act as a mortgage loan originator [without being
437 licensed, or act as a mortgage loan originator] for more than one
438 person. The license of a mortgage loan originator is not effective
439 during any period when such mortgage loan originator is not
440 associated with a licensed mortgage lender, mortgage correspondent
441 lender or mortgage broker. Either the mortgage loan originator or the
442 mortgage lender, mortgage correspondent lender or mortgage broker
443 may file a notification of the termination of employment of a mortgage
444 loan originator with the [Nationwide Mortgage Licensing] System.

445 (2) Registered mortgage loan originators, when acting for an entity
446 described in subdivision (16) of section 36a-485, as amended by this
447 act, are exempt from sections 36a-485 to 36a-498a, inclusive, as
448 amended by this act, sections 1, 2 and 11 of this act, and sections 21 to
449 23, inclusive, of this act.

450 (3) An individual licensed as a mortgage lender, mortgage
451 correspondent lender or mortgage broker shall not be required to
452 obtain or maintain a license as a mortgage loan originator.

453 (4) An individual engaging solely in loan processor or underwriter
454 activities who does not represent to the public through advertising,
455 other means of communication or by providing information, including

456 the use of business cards, stationery, brochures, signs, rate lists or
457 other promotional items, that such individual can or will perform any
458 of the activities of a mortgage loan originator shall not be required to
459 obtain and maintain a license under sections 36a-485 to 36a-498a,
460 inclusive, as amended by this act. For purposes of this subdivision: (A)
461 "Loan processor or underwriter" means an individual who performs
462 clerical or support duties as an employee at the direction of and subject
463 to the supervision and instruction of a person licensed, or exempt from
464 licensing, under sections 36a-485 to 36a-498a, inclusive, as amended by
465 this act; and (B) "clerical or support duties" may include (i) the receipt,
466 collection, distribution and analysis of information common for the
467 processing or underwriting of a residential mortgage loan; and (ii)
468 communicating with a consumer to obtain the information necessary
469 for the processing or underwriting of a loan, to the extent that such
470 communication does not include offering or negotiating loan rates or
471 terms, or counseling consumers about residential mortgage loan rates
472 or terms.

473 (5) An independent contractor may not engage in residential
474 mortgage loan origination activities as a loan processor or underwriter
475 unless such independent contractor obtains and maintains a license as
476 a mortgage loan originator under sections 36a-485 to 36a-498a,
477 inclusive, as amended by this act. Each independent contractor loan
478 processor or underwriter licensed as a mortgage loan originator shall
479 have and maintain a valid unique identifier issued by the System.

480 (c) Each residential mortgage loan negotiated, solicited, arranged,
481 placed, found or made without a license shall constitute a separate
482 violation for purposes of section 36a-50.

483 Sec. 8. Section 36a-487 of the general statutes is repealed and the
484 following is substituted in lieu thereof (*Effective from passage*):

485 The following are exempt from licensing as a mortgage lender and
486 mortgage correspondent lender under sections 36a-485 to 36a-498a,
487 inclusive, as amended by this act:

488 (1) Any bank, out-of-state bank, Connecticut credit union, federal
489 credit union, or out-of-state credit union that is federally insured,
490 provided subsidiaries of such institutions other than operating
491 subsidiaries of federal banks and federally-chartered out-of-state banks
492 are not exempt from licensure;

493 (2) Persons making five or fewer residential mortgage loans within
494 any period of twelve consecutive months, provided nothing herein
495 shall relieve such persons from complying with all applicable laws;

496 (3) Bona fide nonprofit corporations making residential mortgage
497 loans to promote home ownership for the economically
498 disadvantaged;

499 (4) Agencies of the federal government, or any state or municipal
500 government, or any quasi-governmental agency making residential
501 mortgage loans under the specific authority of the laws of any state or
502 the United States;

503 (5) Persons licensed under sections 36a-555 to 36a-573, inclusive, as
504 amended by this act, when making residential mortgage loans
505 authorized by said sections;

506 (6) Persons owning real property who take back from the buyer of
507 such property a secondary mortgage loan in lieu of any portion of the
508 purchase price of the property;

509 (7) Any corporation or its affiliate [which] that makes residential
510 mortgage loans exclusively for the benefit of its employees or agents;

511 (8) Any corporation, licensed in accordance with section 38a-41, or
512 its affiliate or subsidiary, [which] that makes residential mortgage
513 loans to promote home ownership in urban areas;

514 (9) Persons acting as fiduciaries with respect to any employee
515 pension benefit plan qualified under the Internal Revenue Code of
516 1986, or any subsequent corresponding internal revenue code of the

517 United States, as from time to time amended, who make residential
518 mortgage loans solely to plan participants from plan assets; and

519 (10) Persons making secondary mortgage loans to individuals
520 related to the maker by blood or marriage.

521 Sec. 9. Section 36a-488 of the general statutes is repealed and the
522 following is substituted in lieu thereof (*Effective from passage*):

523 (a) (1) The commissioner shall not issue a mortgage lender license, a
524 mortgage correspondent lender license or a mortgage broker license to
525 any person unless such person meets the following tangible net worth
526 and experience requirements, as applicable: (A) The minimum tangible
527 net worth requirement for a mortgage lender shall be two hundred
528 fifty thousand dollars and the minimum tangible net worth
529 requirement for a mortgage correspondent lender and a mortgage
530 broker shall be (i) prior to March 2, 2009, twenty-five thousand dollars,
531 and (ii) on and after March 2, 2009, fifty thousand dollars, and (B) a
532 mortgage lender, mortgage correspondent lender or mortgage broker
533 shall have, at the main office for which the license is sought, a qualified
534 individual with supervisory authority over the lending or brokerage
535 activities who has at least three years' experience in the mortgage
536 business within the five years immediately preceding the application
537 for the license, and at each branch office, the lender or broker shall
538 have a branch manager with supervisory authority over the lending or
539 brokerage activities who has at least three years' experience in the
540 mortgage business within the five years immediately preceding the
541 application for the license. As used in this subdivision, "experience in
542 the mortgage business" means paid experience in the origination,
543 processing or underwriting of mortgage loans, the marketing of such
544 loans in the secondary market or in the supervision of such activities,
545 or any other relevant experience as determined by the commissioner.

546 (2) Each licensee shall maintain the net worth required by this
547 subsection and shall promptly notify the commissioner if such
548 licensee's net worth falls below the net worth required by this

549 subsection.

550 (b) The commissioner may issue a mortgage lender license, a
551 mortgage correspondent lender license, or a mortgage broker license.
552 Each mortgage lender licensee may also act as a mortgage
553 correspondent lender and a mortgage broker, and each mortgage
554 correspondent lender licensee may also act as a mortgage broker. On
555 and after July 1, 2008, an application for a license as a mortgage lender,
556 mortgage correspondent lender or mortgage broker office or renewal
557 of such license shall be filed with the [Nationwide Mortgage Licensing]
558 System and the following supplementary information shall be filed
559 directly with the commissioner: (1) In the case of an initial application
560 for a license for the main office, [or renewal of such license,] a financial
561 statement as of a date not more than twelve months prior to the filing
562 of the application which reflects tangible net worth, and if such
563 financial statement is unaudited, the proprietor, general partner, or
564 duly authorized officer, trustee or member shall swear to its accuracy
565 under oath before a notary public; (2) a bond as required by section
566 36a-492, as amended by this act; (3) the history of criminal convictions
567 for the ten-year period prior to the date of application of the applicant,
568 the partners, if the applicant is a partnership, the members, if the
569 applicant is a limited liability company or association, or the officers
570 and directors, if the applicant is a corporation, and the person with
571 supervisory authority at the office for which the license is being
572 sought; (4) evidence that the qualified individual or branch manager
573 meets the experience required by subsection (a) of this section; and
574 [(4)] (5) such other information pertaining to the applicant, the
575 applicant's background, the background of its principals, employees,
576 and mortgage loan originators, and the applicant's activities as the
577 commissioner may require. For the purpose of this subsection,
578 evidence of experience of the qualified individual or branch manager
579 shall include: (A) A statement specifying the duties and responsibilities
580 of such person's employment, the term of employment, including
581 month and year, and the name, address and telephone number of a
582 supervisor, employer or, if self-employed, a business reference; and (B)

583 if required by the commissioner, copies of W-2 forms, 1099 tax forms
584 or, if self-employed, 1120 corporate tax returns, signed letters from the
585 employer on the employer's letterhead verifying such person's duties
586 and responsibilities and term of employment including month and
587 year, and if such person is unable to provide such letters, other proof
588 satisfactory to the commissioner that such person meets the experience
589 requirement. The commissioner may conduct a criminal history
590 records check of the applicant, of each member, partner, officer or
591 director of the applicant and of the person with supervisory authority
592 at the office for which the license is sought, and require the applicant
593 to submit the fingerprints of such persons as part of the application.
594 The applicant shall submit such fingerprints for processing with the
595 [Nationwide Mortgage Licensing] System, as required.

596 (c) [On and after July 1, 2008, an] An application to license a person
597 as a mortgage loan originator for a specified office or renewal of such
598 license shall be filed, in a form prescribed by the commissioner, with
599 the [Nationwide Mortgage Licensing] System. [The applicant shall
600 submit such fingerprints for processing with the Nationwide Mortgage
601 Licensing System, as required.] Each such form shall contain content as
602 set forth by instruction or procedure of the commissioner and may be
603 changed or updated as necessary by the commissioner in order to
604 carry out the purpose of sections 36a-485 to 36a-498a, inclusive, as
605 amended by this act, sections 1, 2 and 11 of this act, and sections 21 to
606 23, inclusive, of this act. In connection with any such application, the
607 prospective mortgage loan originator or mortgage loan originator
608 shall, at a minimum, furnish to the System information concerning the
609 prospective mortgage loan originator's or mortgage loan originator's
610 identity, including: (1) Fingerprints for submission to the Federal
611 Bureau of Investigation, and any governmental agency or entity
612 authorized to receive such information for a state, national and
613 international criminal history background check; (2) personal history
614 and experience in a form prescribed by the System, including the
615 submission of authorization for the System and the commissioner to
616 obtain an independent credit report obtained from a consumer

617 reporting agency, as defined in Section 603(p) of the Fair Credit
618 Reporting Act, 15 USC 1681a; and (3) information related to any
619 administrative, civil or criminal findings by any governmental
620 jurisdiction.

621 Sec. 10. Section 36a-489 of the general statutes is repealed and the
622 following is substituted in lieu thereof (*Effective from passage*):

623 (a) [If the commissioner finds, upon] (1) Upon the filing of an
624 application for a license as a mortgage lender, mortgage correspondent
625 lender or mortgage broker, the commissioner may not issue a license
626 unless the commissioner, at a minimum, finds that: [the] (A) The
627 applicant meets the requirements of subsection (a) of section 36a-488,
628 [and that the financial responsibility, character, reputation, integrity
629 and general fitness of] as amended by this act; (B) the applicant has
630 never had a mortgage lender, mortgage correspondent lender or
631 mortgage broker license revoked in any governmental jurisdiction; (C)
632 notwithstanding the provisions of section 46a-80, the applicant and [of]
633 the partners [thereof] if the applicant is a partnership, [of] the members
634 if the applicant is a limited liability company or association, and [of]
635 the officers, directors and principal employees if the applicant is a
636 corporation [, are such as to warrant belief that the business will be
637 operated soundly and efficiently, in the public interest and consistent
638 with the purposes of sections 36a-485 to 36a-498a, inclusive, and
639 sections 36a-760a to 36a-760h, inclusive, the commissioner may
640 thereupon issue the license] have not been convicted of, or pled guilty
641 or nolo contendere to, a felony in a domestic, foreign or military court
642 during the seven-year period preceding the date of the application for
643 licensing and registration, or at any time preceding such date of
644 application, if such felony involved an act of fraud, dishonesty or a
645 breach of trust, or money laundering, provided any conviction
646 expunged from the record shall not be considered a conviction for
647 purposes of this subdivision; (D) the applicant demonstrates financial
648 responsibility, character and general fitness such as to command the
649 confidence of the community and to warrant a determination that the

650 mortgage lender, mortgage correspondent lender or mortgage broker
651 will operate honestly, fairly and efficiently within the purposes of
652 sections 36a-485 to 36a-498a, inclusive, as amended by this act; (E) in
653 the case of an application for a license as a mortgage lender, mortgage
654 correspondent lender or mortgage broker who is a sole proprietor and
655 is not licensed as a mortgage loan originator, the applicant has
656 completed the preclicensing education requirement described in section
657 11 of this act and passed a written test that meets the test requirement
658 described in section 11 of this act; (F) the applicant has met the surety
659 bond requirement under section 36a-492, as amended by this act; and
660 (G) the applicant has not made a material misstatement in the
661 application. If the commissioner fails to make such findings, [or if the
662 commissioner finds that the applicant has made a material
663 misstatement in such application,] the commissioner shall not issue a
664 license, and shall notify the applicant of the denial and the reasons for
665 such denial. [Any denial of an application by the commissioner shall,
666 when applicable, be subject to the provisions of section 46a-80.]

667 (2) The minimum standards for license renewal for a mortgage
668 lender, mortgage correspondent lender or mortgage broker shall
669 include the following: (A) The applicant continues to meet the
670 minimum standards under subdivision (1) of this subsection, and (B)
671 an applicant who is a sole proprietor and is not licensed as a mortgage
672 loan originator has satisfied the annual continuing education
673 requirements described in subsection (d) of section 11 of this act.

674 (b) (1) Upon the filing of an application for a mortgage loan
675 originator license, the commissioner [shall license the mortgage loan
676 originator named in the application unless the commissioner finds that
677 such applicant or mortgage loan originator has made a material
678 misstatement in the application or that the financial responsibility,
679 character, reputation, integrity and general fitness of such mortgage
680 loan originator are not such as to warrant belief that granting such
681 license would be in the public interest and consistent with the
682 purposes of sections 36a-485 to 36a-498a, inclusive, and sections 36a-

683 760a to 36a-760h, inclusive] may not issue a mortgage loan originator
684 license unless the commissioner, at a minimum, finds that the
685 applicant has: (A) Never had a mortgage loan originator license
686 revoked in any governmental jurisdiction; (B) notwithstanding the
687 provisions of section 46a-80, not been convicted of, or pled guilty or
688 nolo contendere to, a felony in a domestic, foreign or military court
689 during the seven-year period preceding the date of the application for
690 licensing and registration, or at any time preceding such date of
691 application, if such felony involved an act of fraud, dishonesty or a
692 breach of trust, or money laundering, provided any conviction
693 expunged from the applicant's record shall not be considered a
694 conviction for purposes of this subdivision; (C) demonstrated financial
695 responsibility, character and general fitness such as to command the
696 confidence of the community and to warrant a determination that the
697 mortgage loan originator will operate honestly, fairly and efficiently
698 within the purposes of sections 1, 2 and 11 of this act, and sections 21
699 to 23, inclusive, of this act and sections 36a-485 to 36a-498a, inclusive,
700 as amended by this act; (D) completed the prelicensing education
701 requirement described in section 11 of this act and passed a written
702 test that meets the test requirement described in section 11 of this act;
703 (E) met the surety bond requirement under section 36a-492, as
704 amended by this act; and (F) not made a material misstatement in the
705 application. If the commissioner denies an application for a mortgage
706 loan originator license, the commissioner shall notify the applicant
707 [and the proposed mortgage loan originator] of the denial and the
708 reasons for such denial. [Any denial of an application by the
709 commissioner shall, when applicable, be subject to the provisions of
710 section 46a-80.]

711 (2) The minimum standards for license renewal for a mortgage loan
712 originator shall include the following: (A) The mortgage loan
713 originator continues to meet the minimum standards for license
714 issuance under subdivision (1) of this subsection, and (B) the mortgage
715 loan originator has satisfied the annual continuing education
716 requirements described in subsection (d) of section 11 of this act.

717 Sec. 11. (NEW) (*Effective from passage*) (a) (1) In order to meet the
718 prelicensing education and testing requirement under section 36a-489
719 of the general statutes, as amended by this act, a person shall complete
720 at least twenty hours of education approved in accordance with
721 subdivision (2) of this subsection, which shall include at least (i) three
722 hours of instruction on relevant federal law and regulations; (ii) three
723 hours of ethics, including instruction on fraud, consumer protection
724 and fair lending issues; and (iii) two hours of training related to
725 lending standards for the nontraditional mortgage product
726 marketplace.

727 (2) For purposes of subdivision (1) of this subsection, prelicensing
728 education courses shall be reviewed and approved by the System
729 based upon reasonable standards. Review and approval of a
730 prelicensing education course shall include review and approval of the
731 course provider.

732 (3) Nothing in this subsection shall preclude any prelicensing
733 education course, as approved by the System, that is provided by the
734 employer of the applicant or an entity which is affiliated with the
735 applicant by an agency contract, or any subsidiary or affiliate of such
736 employer or entity.

737 (4) Prelicensing education may be offered either in a classroom,
738 online or by any other means approved by the System.

739 (5) A person who has successfully completed prelicensing education
740 requirements listed in subdivision (1) of this subsection in another
741 state shall be granted credit towards completion of the prelicensing
742 requirements in this state, provided such out-of-state prelicensing
743 education requirements are approved by the System.

744 (b) (1) In order to meet the written test requirement under section
745 36a-489 of the general statutes, as amended by this act, an individual
746 shall pass, in accordance with the standards established under this
747 subsection, a qualified written test developed by the System and

748 administered by a test provider approved by the System based upon
749 reasonable standards.

750 (2) A written test shall not be treated as a qualified written test for
751 purposes of subdivision (1) of this subsection unless the test
752 adequately measures the applicant's knowledge and comprehension in
753 appropriate subject areas, including ethics, federal law and regulation
754 pertaining to mortgage origination, state law and regulation pertaining
755 to mortgage origination, and federal and state law and regulation,
756 including instruction on fraud, consumer protection, the
757 nontraditional mortgage marketplace and fair lending issues.

758 (3) Nothing in this subsection shall prohibit a test provider
759 approved by the System from providing a test at the location of the
760 employer of the applicant, any subsidiary or affiliate of the employer
761 of the applicant or any entity with which the applicant holds an
762 exclusive arrangement to conduct the business of a mortgage loan
763 originator.

764 (4) (A) An individual shall not be considered to have passed a
765 qualified written test unless the individual achieves a test score of not
766 less than seventy-five per cent correct answers to questions.

767 (B) An individual may retake a test three consecutive times with
768 each consecutive taking occurring at least thirty days after the
769 preceding test. After failing three consecutive tests, an individual shall
770 wait at least six months before taking the test again.

771 (c) A licensed mortgage lender, mortgage correspondent lender,
772 mortgage broker or mortgage loan originator who fails to maintain a
773 valid license for a period of five years or longer, not taking into
774 account any time during which such individual is a registered
775 mortgage loan originator, shall retake the test.

776 (d) (1) In order to meet the annual continuing education
777 requirements under subdivision (2) of subsection (b) of section 36a-489

778 of the general statutes, as amended by this act, a licensed mortgage
779 lender, mortgage correspondent lender, mortgage broker or mortgage
780 loan originator shall complete at least eight hours of education
781 approved in accordance with subdivision (2) of this subsection. Such
782 courses shall include at least (i) three hours of instruction on relevant
783 federal law and regulation; (ii) two hours of ethics, including
784 instruction on fraud, consumer protection and fair lending issues; and
785 (iii) two hours of training related to lending standards for the
786 nontraditional mortgage product marketplace.

787 (2) For purposes of subdivision (1) of this subsection, continuing
788 education courses shall be reviewed and approved by the System
789 based upon reasonable standards. Review and approval of a
790 continuing education course shall include review and approval of the
791 course provider.

792 (3) Nothing in this subsection shall preclude any education course
793 approved by the System that is provided by the employer of the
794 licensee or an entity which is affiliated with the licensee by an agency
795 contract, or any subsidiary or affiliate of such employer or entity.

796 (4) Continuing education may be offered either in a classroom,
797 online or by any other means approved by the System.

798 (5) A licensee may only receive credit for a continuing education
799 course in the year in which the course is taken, and may not take the
800 same approved course in the same or successive years to meet the
801 annual requirements for continuing education.

802 (6) A licensee who is an instructor of an approved continuing
803 education course may receive credit for the licensee's own annual
804 continuing education requirement at the rate of two hours credit for
805 every one hour taught.

806 (7) A person who has successfully completed the education
807 requirements listed in subdivision (1) of this subsection in another

808 state shall be granted credit towards completion of the education
809 requirements in this state, provided such out-of-state education
810 requirements are approved by the System.

811 (e) For purposes of this section "nontraditional mortgage product"
812 means any mortgage product other than a thirty-year fixed rate
813 mortgage, and "System" has the same meaning as provided in section
814 36a-485 of the general statutes, as amended by this act.

815 Sec. 12. Section 36a-490 of the general statutes is repealed and the
816 following is substituted in lieu thereof (*Effective from passage*):

817 (a) A mortgage lender, mortgage correspondent lender and
818 mortgage broker license shall not be transferable or assignable. No
819 licensee may use any name other than its legal name or a fictitious
820 name approved by the commissioner, provided such licensee may not
821 use its legal name if the commissioner disapproves use of such name.
822 Any licensee who intends to permanently cease engaging in the
823 business of making residential mortgage loans or acting as a mortgage
824 broker at any time during a license period for any cause, including, but
825 not limited to, bankruptcy, license revocation or voluntary dissolution,
826 shall file a surrender of the license for each office at which the licensee
827 intends to cease to do business, on the [Nationwide Mortgage
828 Licensing] System, not later than fifteen days after such cessation,
829 provided this requirement shall not apply when a license has been
830 suspended pursuant to section 36a-51.

831 (b) A mortgage lender, mortgage correspondent lender or mortgage
832 broker licensee may change the name of the licensee or address of the
833 office specified on the most recent filing with the [Nationwide
834 Mortgage Licensing] System if (1) at least thirty calendar days prior to
835 such change, the licensee files such change with the [Nationwide
836 Mortgage Licensing] System and provides, directly to the
837 commissioner, a bond rider or endorsement to the surety bond on file
838 with the commissioner that reflects the new name or address of the
839 office, and (2) the commissioner does not disapprove such change, in

840 writing, or request further information within such thirty-day period.
841 The licensee shall promptly file with the [Nationwide Mortgage
842 Licensing] System or, if the information cannot be filed on the
843 [Nationwide Mortgage Licensing] System, directly notify the
844 commissioner, in writing, of any other change in the information
845 provided in the most recent filing with the [Nationwide Mortgage
846 Licensing] System.

847 (c) The mortgage lender, mortgage correspondent lender or
848 mortgage broker licensee shall promptly file with the [Nationwide
849 Mortgage Licensing] System or, if the information cannot be filed on
850 the [Nationwide Mortgage Licensing] System, directly notify the
851 commissioner, in writing, of the occurrence of any of the following
852 developments:

853 (1) Filing for bankruptcy, or the consummation of a corporate
854 restructuring, of the licensee;

855 (2) Filing of a criminal indictment against the licensee in any way
856 related to the lending or brokerage activities of the licensee, or
857 receiving notification of the filing of any criminal felony indictment or
858 felony conviction of any of the licensee's officers, directors, members,
859 partners or shareholders owning ten per cent or more of the
860 outstanding stock;

861 (3) Receiving notification of the institution of license denial, cease
862 and desist, suspension or revocation procedures, or other formal or
863 informal regulatory action by any governmental agency against the
864 licensee and the reasons therefor;

865 (4) Receiving notification of the initiation of any action by the
866 Attorney General or the attorney general of any other state and the
867 reasons therefor;

868 (5) Receiving notification of a material adverse action with respect
869 to any existing line of credit or warehouse credit agreement;

870 (6) Suspension or termination of the licensee's status as an approved
871 seller or servicer by the Federal National Mortgage Association,
872 Federal Home Loan Mortgage Corporation or Government National
873 Mortgage Association;

874 (7) Exercise of recourse rights by investors or subsequent assignees
875 of residential mortgage loans if such loans for which the recourse
876 rights are being exercised, in the aggregate, exceed the licensee's net
877 worth exclusive of real property and fixed assets;

878 (8) Receiving notification of filing for bankruptcy of any of the
879 licensee's officers, directors, members, partners or shareholders
880 owning ten per cent or more of the outstanding stock of the licensee; or

881 (9) Any proposed change in control in the ownership of the licensee,
882 or among the officers, directors, members or partners of the licensee on
883 a form provided by the commissioner. The commissioner may
884 thereupon cause such investigation to be made as he deems necessary,
885 as if the licensee were applying for an initial license. In the case of a
886 corporation, "change in control" means a change of ownership by a
887 person or group acting in concert to acquire ten per cent or more of
888 any class of voting securities, or the ability of a person or group acting
889 in concert to elect a majority of the directors or otherwise effect a
890 change in policy of the corporation.

891 (d) Each mortgage loan originator licensee shall promptly file with
892 the [Nationwide Mortgage Licensing] System or, if the information
893 cannot be filed on the [Nationwide Mortgage Licensing] System,
894 directly notify the commissioner, in writing, of the occurrence of any of
895 the following developments:

896 (1) Filing for bankruptcy of the mortgage loan originator licensee;

897 (2) Filing of a criminal indictment against the mortgage loan
898 originator licensee;

899 (3) Receiving notification of the institution of license or registration

900 denial, cease and desist, suspension or revocation procedures, or other
901 formal or informal regulatory action by any governmental agency
902 against the mortgage loan originator licensee and the reasons therefor;
903 or

904 (4) Receiving notification of the initiation of any action against the
905 mortgage loan originator licensee by the Attorney General or the
906 attorney general of any other state and the reasons therefor.

907 (e) Each mortgage lender, mortgage correspondent lender,
908 mortgage broker and mortgage loan originator license shall remain in
909 force and effect until it has been surrendered, revoked, suspended or
910 expires, or is no longer effective, in accordance with the provisions of
911 sections 36a-485 to 36a-498a, inclusive, as amended by this act.

912 Sec. 13. Section 36a-491 of the general statutes is repealed and the
913 following is substituted in lieu thereof (*Effective from passage*):

914 (a) (1) The expiration date of any mortgage lender, mortgage
915 correspondent lender and mortgage broker license that expires on
916 September 30, 2008, shall be extended to the close of business on
917 December 31, 2008. On and after July 1, 2008, each mortgage lender,
918 mortgage correspondent lender or mortgage broker license shall expire
919 at the close of business on December thirty-first of the year in which it
920 is approved, unless such license is renewed, and provided any such
921 license that is approved on or after November first shall expire at the
922 close of business on December thirty-first of the year following the
923 year in which it is approved. An application for renewal of a license
924 shall be filed between November first and December thirty-first of the
925 year in which the license expires, provided a licensee may file a
926 renewal application not later than March first of the following year
927 together with a late fee of one hundred dollars. Any such filing after
928 December thirty-first shall be deemed timely and sufficient for
929 purposes of subsection (b) of section 4-182. Each applicant for a license
930 or renewal of a license as a mortgage lender or mortgage
931 correspondent lender shall pay to the [Nationwide Mortgage

932 Licensing] System any required fees or charges and a license fee of
933 eight hundred dollars, and each applicant for an initial or renewal
934 license as a mortgage broker shall pay to the [Nationwide Mortgage
935 Licensing] System any required fees or charges and a license fee of
936 four hundred dollars, provided each mortgage lender or mortgage
937 correspondent lender licensee who is a licensee on September 30, 2008,
938 who submits a renewal application shall, at the time of making such
939 application, pay to the [Nationwide Mortgage Licensing] System any
940 required fees or charges and a license fee of nine hundred dollars and
941 each mortgage broker who was a licensee on June 30, 2008, who
942 submits a renewal application shall, at the time of making such
943 application, pay to the [Nationwide Mortgage Licensing] System any
944 required fees or charges and a license fee of four hundred fifty dollars.

945 (2) Each mortgage loan originator license shall expire at such time as
946 the license of the mortgage lender, mortgage correspondent lender or
947 mortgage broker that employs or retains the mortgage loan originator
948 expires, unless such mortgage loan originator license is renewed. Each
949 mortgage lender, mortgage correspondent lender or mortgage broker
950 applicant and each mortgage lender licensee, mortgage correspondent
951 lender licensee or mortgage broker licensee that files an application for
952 a mortgage loan originator license shall pay to the [Nationwide
953 Mortgage Licensing] System any required fees or charges and a license
954 fee of one hundred dollars for each mortgage loan originator, provided
955 each mortgage lender, mortgage correspondent lender or mortgage
956 broker who is a licensee on September 30, 2008, who submits a renewal
957 application for a mortgage loan originator shall, at the time of making
958 such application, pay to the [Nationwide Mortgage Licensing] System
959 any required fees or charges and a license fee of one hundred twenty-
960 five dollars. On and after January 1, 2010, each mortgage lender,
961 mortgage correspondent lender or mortgage broker filing an
962 application for a mortgage loan originator license shall pay a license
963 fee of one hundred dollars for each mortgage loan originator and any
964 required fees or charges to the [Nationwide Mortgage Licensing]
965 System.

966 (b) All fees paid pursuant to this section, including fees paid in
967 connection with an application that is denied or withdrawn prior to
968 the issuance of the license, shall be nonrefundable, provided such fees
969 paid by an originator for a license that is not sponsored by a mortgage
970 lender, mortgage correspondent lender or mortgage broker may be
971 refundable. No fee paid pursuant to this section shall be prorated if the
972 license is surrendered, revoked or suspended prior to the expiration of
973 the period for which it was approved.

974 Sec. 14. Section 36a-492 of the general statutes is repealed and the
975 following is substituted in lieu thereof (*Effective from passage*):

976 (a) No mortgage lender, mortgage correspondent lender, [or]
977 mortgage broker or mortgage loan originator license, and no renewal
978 thereof, shall be granted unless the applicant or prospective mortgage
979 loan originator has filed a bond with the commissioner written by a
980 surety authorized to write such bonds in this state, [in the sum of forty
981 thousand dollars,] the form of which shall be approved by the
982 Attorney General. [provided on and after August 1, 2009, the bond
983 shall be in the sum of eighty thousand dollars.] If a mortgage loan
984 originator is an employee or exclusive agent of a mortgage lender,
985 mortgage correspondent lender or mortgage broker, the surety bond of
986 such mortgage lender, mortgage correspondent lender or mortgage
987 broker may be used in lieu of the mortgage loan originator's surety
988 bond requirement. The minimum amount of the bond shall be one
989 hundred thousand dollars and the maximum shall be five hundred
990 thousand dollars. The amount of the surety bond for initial applicants
991 shall be one hundred thousand dollars. The amount of the surety bond
992 shall be based on the aggregate annual dollar amount of loans closed
993 by the licensee in this state in the preceding calendar year as reflected
994 in the annual report filed by the licensee. For an aggregate annual
995 dollar amount of loans closed less than fifty million dollars, the
996 amount of the surety bond shall be one hundred thousand dollars, for
997 an aggregate annual dollar amount of loans closed of at least fifty
998 million dollars but less than two hundred fifty million dollars, the

999 amount of the bond shall be two hundred fifty thousand dollars, and
1000 for an aggregate annual dollar amount of loans closed of two hundred
1001 fifty million dollars and greater, the amount of the bond shall be five
1002 hundred thousand dollars. Such bond shall be conditioned upon such
1003 licensee and any mortgage loan originator who is using the surety
1004 bond of a mortgage lender, mortgage correspondent lender or
1005 mortgage broker faithfully performing any and all written agreements
1006 or commitments with or for the benefit of borrowers and prospective
1007 borrowers, truly and faithfully accounting for all funds received from a
1008 borrower or prospective borrower by the licensee in the licensee's
1009 capacity as a mortgage lender, mortgage correspondent lender, [or a]
1010 mortgage broker or mortgage loan originator, and conducting such
1011 mortgage business consistent with the provisions of sections 36a-485 to
1012 36a-498a, inclusive, as amended by this act. Any borrower or
1013 prospective borrower who may be damaged by failure to perform any
1014 written agreements or commitments, or by the wrongful conversion of
1015 funds paid by a borrower or prospective borrower to a licensee, may
1016 proceed on such bond against the principal or surety thereon, or both,
1017 to recover damages. Commencing August 1, 2009, any borrower or
1018 prospective borrower who may be damaged by a licensee's failure to
1019 satisfy a judgment against the licensee arising from the making or
1020 brokering of a nonprime home loan, as defined in section 36a-760, may
1021 proceed on such bond against the principal or surety thereon, or both,
1022 to recover the amount of the judgment. The commissioner may
1023 proceed on such bond against the principal or surety thereon, or both,
1024 to collect any civil penalty imposed upon the licensee pursuant to
1025 subsection (a) of section 36a-50 and any unpaid costs of examination of
1026 the licensee as determined pursuant to section 36a-65. The proceeds of
1027 the bond, even if commingled with other assets of the licensee, shall be
1028 deemed by operation of law to be held in trust for the benefit of such
1029 claimants against the licensee in the event of bankruptcy of the licensee
1030 and shall be immune from attachment by creditors and judgment
1031 creditors. The bond shall run concurrently with the period of the
1032 license granted to the applicant, and the aggregate liability under the

1033 bond shall not exceed the penal sum of the bond. When an action is
1034 commenced on a licensee's bond, the commissioner may require the
1035 filing of a new bond and immediately upon recovery on any action on
1036 the bond, the commissioner shall require the licensee to file a new
1037 bond.

1038 (b) The surety company shall have the right to cancel the bond at
1039 any time by a written notice to the licensee stating the date cancellation
1040 shall take effect. Such notice shall be sent by certified mail to the
1041 licensee at least thirty days prior to the date of cancellation. A surety
1042 bond shall not be cancelled unless the surety company notifies the
1043 commissioner in writing not less than thirty days prior to the effective
1044 date of cancellation.

1045 Sec. 15. Subsection (a) of section 36a-493 of the general statutes is
1046 repealed and the following is substituted in lieu thereof (*Effective from*
1047 *passage*):

1048 (a) Each mortgage lender, mortgage correspondent lender and
1049 mortgage broker licensee shall maintain adequate records of each
1050 residential mortgage loan transaction at the office named in the license,
1051 or, if requested by the commissioner, shall make such records available
1052 at such office or send such records to the commissioner by registered
1053 or certified mail, return receipt requested, or by any express delivery
1054 carrier that provides a dated delivery receipt, not later than five
1055 business days after requested by the commissioner to do so. Upon
1056 request, the commissioner may grant a licensee additional time to
1057 make such records available or send them to the commissioner. Such
1058 records shall provide the following information: (1) A copy of any
1059 disclosures required under part III of chapter 669; (2) whether the
1060 licensee acted as a mortgage lender, a mortgage correspondent lender,
1061 a mortgage broker, a mortgage lender and a mortgage broker, or a
1062 mortgage correspondent lender and a mortgage broker; (3) if the
1063 licensee is acting as a mortgage lender or mortgage correspondent
1064 lender, and retains the residential mortgage loan or receives payments

1065 thereon, an adequate loan history for those loans retained or upon
1066 which payments are received, itemizing the amount and date of each
1067 payment and the unpaid balance at all times; (4) the purpose for which
1068 the loan was made; (5) the original or an exact copy of the note, loan
1069 agreement or other evidence of indebtedness and mortgage deed; (6) a
1070 statement signed by the borrower acknowledging the receipt of such
1071 statement which discloses the full amount of any fee, commission or
1072 consideration paid to the mortgage lender, mortgage correspondent
1073 lender and mortgage broker for all services in connection with the
1074 origination and settlement of the residential mortgage loan; (7) the
1075 name and address of the mortgage lender, mortgage correspondent
1076 lender and the mortgage broker, if any, involved in the loan
1077 transaction; (8) a copy of the initial and a copy of the final residential
1078 mortgage loan application taken from the borrower; and (9) a copy of
1079 all information used in evaluating the application.

1080 Sec. 16. Section 36a-494 of the general statutes is repealed and the
1081 following is substituted in lieu thereof (*Effective from passage*):

1082 (a) (1) The commissioner may suspend, revoke or refuse to renew
1083 any mortgage lender, mortgage correspondent lender or mortgage
1084 broker license or take any other action, in accordance with the
1085 provisions of section 36a-51, for any reason which would be sufficient
1086 grounds for the commissioner to deny an application for such license
1087 under sections 36a-485 to 36a-498a, inclusive, as amended by this act,
1088 or if the commissioner finds that the licensee or any proprietor,
1089 director, officer, member, partner, shareholder, trustee, employee or
1090 agent of such licensee has done any of the following: (A) Made any
1091 material misstatement in the application; (B) committed any fraud,
1092 misappropriated funds or misrepresented, concealed, suppressed,
1093 intentionally omitted or otherwise intentionally failed to disclose any
1094 of the material particulars of any residential mortgage loan transaction,
1095 including disclosures required by subdivision (6) of subsection (a) of
1096 section 36a-493, as amended by this act, or part III of chapter 669 or
1097 regulations adopted pursuant thereto, to anyone entitled to such

1098 information; (C) violated any of the provisions of this title or of any
1099 regulations adopted pursuant thereto, or any other law or regulation
1100 applicable to the conduct of its business; or (D) failed to perform any
1101 agreement with a licensee or a borrower.

1102 (2) The commissioner may suspend, revoke or refuse to renew any
1103 mortgage loan originator license or take any other action, in
1104 accordance with the provisions of section 36a-51, for any reason which
1105 would be sufficient grounds for the commissioner to deny an
1106 application for such license under sections 36a-485 to 36a-498a,
1107 inclusive, as amended by this act, or if the commissioner finds that the
1108 licensee has committed any fraud, misappropriated funds,
1109 misrepresented, concealed, suppressed, intentionally omitted or
1110 otherwise intentionally failed to disclose any of the material particulars
1111 of any residential mortgage loan transaction or has violated any of the
1112 provisions of this title or of any regulations adopted pursuant to such
1113 title or any other law or regulation applicable to the conduct of such
1114 licensee's business.

1115 (b) Whenever it appears to the commissioner that any person has
1116 violated, is violating or is about to violate any of the provisions of
1117 sections 36a-485 to 36a-498a, inclusive, as amended by this act, or any
1118 regulation adopted pursuant thereto, or any licensee has failed to
1119 perform any agreement with a borrower, committed any fraud,
1120 misappropriated funds or misrepresented, concealed, suppressed,
1121 intentionally omitted or otherwise intentionally failed to disclose any
1122 of the material particulars of any residential mortgage loan transaction,
1123 including disclosures required by subdivision (6) of subsection (a) of
1124 section 36a-493, as amended by this act, or part III of chapter 669 or
1125 regulations adopted pursuant thereto, to anyone entitled to such
1126 information, the commissioner may take action against such person or
1127 licensee in accordance with sections 36a-50 and 36a-52.

1128 (c) (1) Whenever the commissioner finds as the result of an
1129 investigation that any person conducting business under sections 36a-

1130 485 to 36a-498a, inclusive, as amended by this act: (A) Has violated
1131 said sections or any regulation or order issued thereunder; (B) has been
1132 convicted of a felony that would preclude licensing under said
1133 sections; or (C) no longer demonstrates the financial responsibility,
1134 character and general fitness to command the confidence of the
1135 community and to warrant a determination that the person subject to
1136 said sections will operate honestly, fairly and efficiently, the
1137 commissioner may send notice to such person by registered or certified
1138 mail, return receipt requested, or by any express delivery carrier that
1139 provides a dated delivery receipt. The notice shall be deemed received
1140 by such person on the earlier of the date of actual receipt or seven days
1141 after mailing or sending. Any such notice shall include: (i) A statement
1142 of the time, place and nature of the hearing; (ii) a statement of the legal
1143 authority and jurisdiction under which the hearing is to be held; (iii) a
1144 reference to the particular sections of the general statutes, regulations
1145 or orders alleged to have been violated; (iv) a short and plain
1146 statement of the matters asserted; and (v) a statement indicating that
1147 such person may file a written request for a hearing on the matters
1148 asserted not later than fourteen days after receipt of the notice. If the
1149 commissioner finds that the protection of borrowers requires
1150 immediate action, the commissioner may suspend any such person
1151 from office and require such person to take or refrain from taking such
1152 action as in the opinion of the commissioner will effectuate the
1153 purposes of this subsection, by incorporating a finding to that effect in
1154 such notice. The suspension or prohibition shall become effective upon
1155 receipt of such notice and, unless stayed by a court, shall remain in
1156 effect until the entry of a permanent order or the dismissal of the
1157 matters asserted.

1158 (2) If a hearing is requested within the time specified in the notice,
1159 the commissioner shall hold a hearing upon the matters asserted in the
1160 notice unless such person fails to appear at the hearing. After the
1161 hearing, if the commissioner finds that any of the grounds set forth in
1162 subparagraphs (A) to (C), inclusive, of subdivision (1) of this
1163 subsection exist with respect to such person, the commissioner may

1164 order the removal of such person from office and from any
1165 employment in the mortgage business in this state. If such person fails
1166 to appear at the hearing, the commissioner may order the removal of
1167 such person from office and from employment in the mortgage
1168 business in this state.

1169 Sec. 17. Section 36a-496 of the general statutes is repealed and the
1170 following is substituted in lieu thereof (*Effective from passage*):

1171 No person engaged in the business of making residential mortgage
1172 loans in this state, whether licensed in accordance with the provisions
1173 of sections 36a-485 to 36a-498a, inclusive, as amended by this act, or
1174 exempt from licensing, shall accept applications or referral of
1175 applicants from, or pay a fee to, any mortgage broker or mortgage loan
1176 originator who is required to be licensed under said sections but was
1177 not, as of the time of the performance of such mortgage broker's or
1178 mortgage loan originator's services in connection with loans made or
1179 to be made by the mortgage lender or mortgage correspondent lender,
1180 licensed to act as such by the commissioner, if the mortgage lender or
1181 mortgage correspondent lender has actual knowledge that the
1182 mortgage broker or mortgage loan originator was not licensed by the
1183 commissioner.

1184 Sec. 18. Section 36a-497 of the general statutes is repealed and the
1185 following is substituted in lieu thereof (*Effective from passage*):

1186 No mortgage lender licensee, mortgage correspondent lender
1187 licensee or mortgage broker licensee shall:

1188 (1) Advertise or cause to be advertised in this state, any residential
1189 mortgage loan in which such person intends to act only as a mortgage
1190 broker unless the advertisement includes the following statement,
1191 clearly and conspicuously expressed: MORTGAGE BROKER ONLY,
1192 NOT A MORTGAGE LENDER OR MORTGAGE CORRESPONDENT
1193 LENDER; or

1194 (2) In connection with an advertisement in this state, use (A) a
1195 simulated check; (B) a comparison between the loan payments under
1196 the residential mortgage loan offered and the loan payments under a
1197 hypothetical loan or extension of credit, unless the advertisement
1198 includes, with respect to both the hypothetical loan or extension of
1199 credit and the residential mortgage loan being offered, the interest rate,
1200 the loan balance, the total amount of finance charges, the total number
1201 of payments and the monthly payment amount that would be required
1202 to pay off the outstanding loan balance shown; (C) representations
1203 such as "verified as eligible", "eligible", "preapproved", "prequalified"
1204 or similar words or phrases, without also disclosing, in immediate
1205 proximity to and in similar size print, language which sets forth
1206 prerequisites to qualify for the residential mortgage loan, including,
1207 but not limited to, income verification, credit check, and property
1208 appraisal or evaluation; or (D) any words or symbols in the
1209 advertisement or on the envelope containing the advertisement that
1210 give the appearance that the mailing was sent by a government
1211 agency.

1212 Sec. 19. Subsections (a) to (g), inclusive, of section 36a-498 of the
1213 general statutes are repealed and the following is substituted in lieu
1214 thereof (*Effective from passage*):

1215 (a) Except as provided in subsection (c) of this section, every
1216 advance fee paid or given, directly or indirectly, to a mortgage lender,
1217 mortgage correspondent lender or mortgage broker required to be
1218 licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as
1219 amended by this act, shall be refundable.

1220 (b) No mortgage loan originator required to be licensed pursuant to
1221 sections 36a-485 to 36a-498a, inclusive, as amended by this act, shall
1222 accept payment of any advance fee except an advance fee on behalf of
1223 a mortgage lender, mortgage correspondent lender or mortgage broker
1224 licensee. Nothing in this subsection shall be construed as prohibiting
1225 the mortgage lender, mortgage correspondent lender or mortgage

1226 broker licensee from paying a mortgage loan originator all or part of
1227 an advance fee, provided such advance fee paid is not refundable
1228 under this section.

1229 (c) Subsection (a) of this section shall not apply if: (1) The person
1230 providing the advance fee and the mortgage lender, mortgage
1231 correspondent lender or mortgage broker agree in writing that the
1232 advance fee shall not be refundable, in whole or in part; and (2) the
1233 written agreement complies in all respects with the provisions of
1234 subsection (d) of this section.

1235 (d) An agreement under subsection (c) of this section shall meet all
1236 of the following requirements to be valid and enforceable: (1) The
1237 agreement shall be dated, signed by both parties, and be executed
1238 prior to the payment of any advance fee; (2) the agreement shall
1239 expressly state the total advance fee required to be paid and any
1240 amount of the advance fee that shall not be refundable; (3) the
1241 agreement shall clearly and conspicuously state any conditions under
1242 which the advance fee will be retained by the mortgage lender,
1243 mortgage correspondent lender or mortgage broker; (4) the term
1244 "nonrefundable" shall be used to describe each advance fee or portion
1245 thereof to which the term is applicable, and shall appear in boldface
1246 type in the agreement each time it is used; and (5) the form of the
1247 agreement shall (A) be separate from any other forms, contracts, or
1248 applications utilized by the mortgage lender, mortgage correspondent
1249 lender or mortgage broker, (B) contain a heading in a size equal to at
1250 least ten-point boldface type that shall title the form "AGREEMENT
1251 CONCERNING NONREFUNDABILITY OF ADVANCE FEE", (C)
1252 provide for a duplicate copy which shall be given to the person paying
1253 the advance fee at the time of payment of the advance fee, and (D)
1254 include such other specifications as the commissioner may by
1255 regulation prescribe.

1256 (e) An agreement under subsection (c) of this section that does not
1257 meet the requirements of subsection (d) of this section shall be

1258 voidable at the election of the person paying the advance fee.

1259 (f) (1) No mortgage lender, mortgage correspondent lender or
1260 mortgage broker required to be licensed pursuant to sections 36a-485
1261 to 36a-498a, inclusive, as amended by this act, shall enter into an
1262 agreement with or otherwise require any person to pay the mortgage
1263 lender, mortgage correspondent lender or mortgage broker for any fee,
1264 commission or other valuable consideration lost as a result of such
1265 person failing to consummate a residential mortgage loan, provided
1266 the mortgage lender, mortgage correspondent lender or mortgage
1267 broker may collect such fee, commission or consideration as an
1268 advance fee subject to the requirements of this section.

1269 (2) No mortgage broker required to be licensed pursuant to sections
1270 36a-485 to 36a-498a, inclusive, as amended by this act, shall enter into
1271 an agreement with or otherwise require any person to pay the
1272 mortgage broker any fee, commission or other valuable consideration
1273 for the prepayment of the principal of a residential mortgage loan by
1274 such person before the date on which the principal is due.

1275 (g) (1) For the purposes of this subsection:

1276 (A) "Unfair or deceptive act or practice" means (i) the failure to
1277 clearly and conspicuously state in the initial phase of the solicitation
1278 that the solicitor is not affiliated with the mortgage lender, mortgage
1279 correspondent lender or mortgage broker with which the consumer
1280 initially applied, (ii) the failure to clearly and conspicuously state in
1281 the initial phase of the solicitation that the solicitation is based on
1282 personal information about the consumer that was purchased, directly
1283 or indirectly, from a consumer reporting agency without the
1284 knowledge or permission of the mortgage lender, mortgage
1285 correspondent lender or mortgage broker with which the consumer
1286 initially applied, (iii) the failure in the initial solicitation to comply
1287 with the provisions of the federal Fair Credit Reporting Act relating to
1288 prescreening solicitations that use consumer reports, including the
1289 requirement to make a firm offer of credit to the consumer, or (iv)

1290 knowingly or negligently using information from a mortgage trigger
1291 lead (I) to solicit consumers who have opted out of prescreened offers
1292 of credit under the federal Fair Credit Reporting Act, or (II) to place
1293 telephone calls to consumers who have placed their contact
1294 information on a federal or state Do Not Call list; and

1295 (B) "Mortgage trigger lead" means a consumer report obtained
1296 pursuant to Section 604 (c)(1)(B) of the federal Fair Credit Reporting
1297 Act, 15 USC 1681b, where the issuance of the report is triggered by an
1298 inquiry made with a consumer reporting agency in response to an
1299 application for credit. "Mortgage trigger lead" does not include a
1300 consumer report obtained by a mortgage lender or mortgage
1301 correspondent lender that holds or services existing indebtedness of
1302 the applicant who is the subject of the report.

1303 (2) No mortgage lender, mortgage correspondent lender, mortgage
1304 broker or mortgage loan originator shall engage in an unfair or
1305 deceptive act or practice in soliciting an application for a residential
1306 mortgage loan when such solicitation is based, in whole or in part, on
1307 information contained in a mortgage trigger lead. Any violation of this
1308 subsection shall be deemed an unfair or deceptive trade practice under
1309 subsection (a) of section 42-110b.

1310 Sec. 20. Section 36a-555 of the general statutes is repealed and the
1311 following is substituted in lieu thereof (*Effective from passage*):

1312 No person shall engage in the business of making loans of money or
1313 credit in the amount or to the value of fifteen thousand dollars or less
1314 for loans made under section 36a-563 or section 36a-565, and charge,
1315 contract for or receive a greater rate of interest, charge or consideration
1316 than twelve per cent per annum therefor, unless licensed to do so by
1317 the commissioner pursuant to sections 36a-555 to 36a-573, inclusive, as
1318 amended by this act. The provisions of this section shall not apply to
1319 (1) a bank, (2) an out-of-state bank, (3) a Connecticut credit union, (4) a
1320 federal credit union, (5) an out-of-state credit union, (6) a savings and
1321 loan association wholly owned subsidiary service corporation, (7) a

1322 person to the extent that such person makes loans for agricultural,
1323 commercial, industrial or governmental use or extends credit through
1324 an open-end credit plan, as defined in subdivision (8) of subsection (a)
1325 of section 36a-676, for the retail purchase of consumer goods or
1326 services, (8) a mortgage lender or mortgage correspondent lender
1327 licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as
1328 amended by this act, when making [first] residential mortgage loans,
1329 as defined in section 36a-485, as amended by this act, or (9) a licensed
1330 pawnbroker.

1331 Sec. 21. (NEW) (*Effective from passage*) (a) In addition to any
1332 authority allowed under title 36a of the general statutes, the Banking
1333 Commissioner shall have the authority to conduct investigations and
1334 examinations as follows:

1335 (1) For purposes of initial licensing, license renewal, license
1336 suspension, license conditioning, license revocation or termination, or
1337 general or specific inquiry or investigation to determine compliance
1338 with sections 36a-485 to 36a-498a, inclusive, of the general statutes, as
1339 amended by this act, the commissioner may access, receive and use
1340 any books, accounts, records, files, documents, information or
1341 evidence including, but not limited to: (A) Criminal, civil and
1342 administrative history information, including nonconviction data; (B)
1343 personal history and experience information including independent
1344 credit reports obtained from a consumer reporting agency described in
1345 Section 603(p) of the federal Fair Credit Reporting Act, 15 USC 1681a;
1346 and (C) any other documents, information or evidence the
1347 commissioner deems relevant to the inquiry or investigation regardless
1348 of the location, possession, control or custody of such documents,
1349 information or evidence.

1350 (2) For the purposes of investigating violations or complaints arising
1351 under sections 36a-485 to 36a-498a, inclusive, of the general statutes, as
1352 amended by this act, or for the purposes of examination, the
1353 commissioner may review, investigate or examine any mortgage

1354 lender, mortgage correspondent lender, mortgage broker and
1355 mortgage loan originator subject to said sections as often as necessary
1356 in order to carry out the purposes of said sections. The commissioner
1357 may direct, subpoena or order the attendance of and examine under
1358 oath all persons whose testimony may be required about the loans or
1359 the business or subject matter of any such examination or
1360 investigation, and may direct, subpoena or order such person to
1361 produce books, accounts, records, files and any other documents the
1362 commissioner deems relevant to the inquiry.

1363 (b) Each mortgage lender, mortgage correspondent lender,
1364 mortgage broker and mortgage loan originator subject to sections 36a-
1365 485 to 36a-498a, inclusive, of the general statutes, as amended by this
1366 act, shall make available to the commissioner, upon request, the books
1367 and records relating to the operations of such a licensee, individual or
1368 person. The commissioner shall have access to such books and records
1369 and interview the officers, principals, mortgage loan originators,
1370 employees, independent contractors, agents and customers of such
1371 mortgage lender, mortgage correspondent lender, mortgage broker
1372 and mortgage loan originator concerning their business.

1373 (c) Each mortgage lender, mortgage correspondent lender,
1374 mortgage broker and mortgage loan originator subject to sections 36a-
1375 485 to 36a-498a, inclusive, of the general statutes, as amended by this
1376 act, shall make or compile reports or prepare other information as
1377 directed by the commissioner in order to carry out the purposes of this
1378 section including accounting compilations, information lists and data
1379 concerning loan transactions in a format prescribed by the
1380 commissioner or such other information the commissioner deems
1381 necessary to carry out the purposes of this section.

1382 (d) In making any examination or investigation authorized by this
1383 section, the commissioner may control access to any documents and
1384 records of the licensee or person under examination or investigation.
1385 The commissioner may take possession of the documents and records

1386 or place a person in exclusive charge of the documents and records in
1387 the place where they are usually kept. During the period of control, no
1388 individual or person shall remove or attempt to remove any of the
1389 documents and records except pursuant to a court order or with the
1390 consent of the commissioner. Unless the commissioner has reasonable
1391 grounds to believe the documents or records of the licensee have been,
1392 or are at risk of being, altered or destroyed for purposes of concealing
1393 a violation of sections 36a-485 to 36a-498a, inclusive, of the general
1394 statutes, as amended by this act, or section 22 of this act, the licensee or
1395 owner of the documents and records shall have access to the
1396 documents or records as necessary to conduct its ordinary business
1397 affairs.

1398 (e) In order to carry out the purposes of this section, the
1399 commissioner may:

1400 (1) Retain attorneys, accountants or other professionals and
1401 specialists as examiners, auditors or investigators to conduct or assist
1402 in the conduct of examinations or investigations;

1403 (2) Enter into agreements or relationships with other government
1404 officials or regulatory associations in order to improve efficiencies and
1405 reduce regulatory burden by sharing resources, standardized or
1406 uniform methods or procedures, and documents, records, information
1407 or evidence obtained under this section;

1408 (3) Use, hire, contract or employ public or privately available
1409 analytical systems, methods or software to examine or investigate the
1410 mortgage lender, mortgage correspondent lender, mortgage broker or
1411 mortgage loan originator subject to sections 36a-485 to 36a-498a,
1412 inclusive, of the general statutes, as amended by this act;

1413 (4) Accept and rely on examination or investigation reports made by
1414 other government officials, within or without this state;

1415 (5) Accept audit reports made by an independent certified public

1416 accountant for the mortgage lender, mortgage correspondent lender,
1417 mortgage broker or mortgage loan originator subject to sections 36a-
1418 485 to 36a-498a, inclusive, of the general statutes, as amended by this
1419 act, in the course of that part of the examination covering the same
1420 general subject matter as the audit and may incorporate the audit
1421 report in the report of the examination, report of investigation or other
1422 writing of the commissioner; or

1423 (6) Assess the mortgage lender, mortgage correspondent lender,
1424 mortgage broker or mortgage loan originator subject to sections 36a-
1425 485 to 36a-498a, inclusive, of the general statutes, as amended by this
1426 act, the cost of the services in subsection (a) of this section.

1427 (f) The authority of this section shall remain in effect, whether such
1428 a mortgage lender, mortgage correspondent lender, mortgage broker
1429 or mortgage loan originator subject to sections 36a-485 to 36a-498a,
1430 inclusive, of the general statutes, as amended by this act, acts or claims
1431 to act under any licensing or registration law of this state, or claims to
1432 act without such authority.

1433 (g) No licensee, individual or person subject to investigation or
1434 examination under this section may knowingly withhold, abstract,
1435 remove, mutilate, destroy or secrete any books, records, computer
1436 records or other information.

1437 Sec. 22. (NEW) (*Effective from passage*) No person or individual
1438 subject to sections 36a-485 to 36a-498a, inclusive, of the general
1439 statutes, as amended by this act, may:

1440 (1) Directly or indirectly employ any scheme, device or artifice to
1441 defraud or mislead borrowers or lenders or to defraud any person;

1442 (2) Engage in any unfair or deceptive practice toward any person;

1443 (3) Obtain property by fraud or misrepresentation;

1444 (4) Solicit or enter into a contract with a borrower that provides in

1445 substance that such person or individual may earn a fee or commission
1446 through "best efforts" to obtain a loan even though no loan is actually
1447 obtained for the borrower;

1448 (5) Solicit, advertise or enter into a contract for specific interest rates,
1449 points or other financing terms unless the terms are actually available
1450 at the time of soliciting, advertising or contracting;

1451 (6) Conduct any business as a mortgage lender, mortgage
1452 correspondent lender, mortgage broker or mortgage loan originator
1453 without holding a valid license as required under sections 36a-485 to
1454 36a-498a, inclusive, of the general statutes, as amended by this act, or
1455 assist or aide and abet any person in the conduct of business as a
1456 mortgage lender, mortgage correspondent lender, mortgage broker or
1457 mortgage loan originator without a valid license as required under
1458 sections 36a-485 to 36a-498a, inclusive, of the general statutes, as
1459 amended by this act;

1460 (7) Fail to make disclosures as required by sections 36a-485 to 36a-
1461 498a, inclusive, of the general statutes, as amended by this act, and any
1462 other applicable state or federal law including regulations thereunder;

1463 (8) Fail to comply with sections 36a-485 to 36a-498a, inclusive, of the
1464 general statutes, as amended by this act, or rules or regulations
1465 promulgated under said sections or fail to comply with any other state
1466 or federal law, including the rules and regulations thereunder,
1467 applicable to any business authorized or conducted under said
1468 sections;

1469 (9) Make, in any manner, any false or deceptive statement or
1470 representation including, with regard to the rates, points or other
1471 financing terms or conditions for a residential mortgage loan, or
1472 engage in bait and switch advertising;

1473 (10) Negligently make any false statement or knowingly and
1474 wilfully make any omission of material fact in connection with any

1475 information or reports filed with a governmental agency or the System,
 1476 as defined in section 36a-485 of the general statutes, as amended by
 1477 this act, or in connection with any investigation conducted by the
 1478 Banking Commissioner or another governmental agency;

1479 (11) Make any payment, threat or promise, directly or indirectly, to
 1480 any person for the purposes of influencing the independent judgment
 1481 of the person in connection with a residential mortgage loan, or make
 1482 any payment threat or promise, directly or indirectly, to any appraiser
 1483 of a property, for the purposes of influencing the independent
 1484 judgment of the appraiser with respect to the value of the property;

1485 (12) Collect, charge, attempt to collect or charge or use or propose
 1486 any agreement purporting to collect or charge any fee prohibited by
 1487 sections 36a-485 to 36a-498a, inclusive, of the general statutes, as
 1488 amended by this act;

1489 (13) Cause or require a borrower to obtain property insurance
 1490 coverage in an amount that exceeds the replacement cost of the
 1491 improvements as established by the property insurer; or

1492 (14) Fail to truthfully account for monies belonging to a party to a
 1493 residential mortgage loan transaction.

1494 Sec. 23. (NEW) (*Effective from passage*) The "unique identifier", as
 1495 defined in section 36a-485 of the general statutes, as amended by this
 1496 act, of any person originating a residential mortgage loan shall be
 1497 clearly shown on all residential mortgage loan application forms,
 1498 solicitations or advertisements, including business cards or web sites,
 1499 and any other documents as established by rule, regulation or order of
 1500 the Banking Commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

Sec. 3	<i>from passage</i>	36a-21
Sec. 4	<i>from passage</i>	36a-485
Sec. 5	<i>from passage</i>	36a-534b
Sec. 6	<i>from passage</i>	36a-498c
Sec. 7	<i>from passage</i>	36a-486
Sec. 8	<i>from passage</i>	36a-487
Sec. 9	<i>from passage</i>	36a-488
Sec. 10	<i>from passage</i>	36a-489
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	36a-490
Sec. 13	<i>from passage</i>	36a-491
Sec. 14	<i>from passage</i>	36a-492
Sec. 15	<i>from passage</i>	36a-493(a)
Sec. 16	<i>from passage</i>	36a-494
Sec. 17	<i>from passage</i>	36a-496
Sec. 18	<i>from passage</i>	36a-497
Sec. 19	<i>from passage</i>	36a-498(a) to (g)
Sec. 20	<i>from passage</i>	36a-555
Sec. 21	<i>from passage</i>	New section
Sec. 22	<i>from passage</i>	New section
Sec. 23	<i>from passage</i>	New section

Statement of Purpose:

To implement the Governor's budget recommendations, and to implement the provisions of the federal S.A.F.E. Mortgage Licensing Act of 2008.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]